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HOUSE BILL 265

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR LOCAL OPTION COMPENSATING TAXES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated

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1 clearinghouse payable to the state treasurer and deposited with
2 the fiscal agent of New Mexico;

3 B. "department" means the taxation and revenue
4 department, the secretary or any employee of the department
5 exercising authority lawfully delegated to that employee by the
6 secretary;

7 C. "electronic payment" means a payment made by
8 automated clearinghouse deposit, any funds wire transfer system
9 or a credit card, debit card or electronic cash transaction
10 through the internet;

11 D. "employee of the department" means any employee
12 of the department, including the secretary, or any person
13 acting as agent or authorized to represent or perform services
14 for the department in any capacity with respect to any law made
15 subject to administration and enforcement under the provisions
16 of the Tax Administration Act;

17 E. "financial institution" means any state or
18 federally chartered, federally insured depository institution;

19 F. "Internal Revenue Code" means the Internal
20 Revenue Code of 1986, as amended;

21 G. "levy" means the lawful power, hereby invested
22 in the secretary, to take into possession or to require the
23 present or future surrender to the secretary or the secretary's
24 delegate of any property or rights to property belonging to a
25 delinquent taxpayer;

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1 H. "local option compensating tax" means a tax
2 authorized to be imposed by a county or municipality upon the
3 taxpayer's use of property, as the term "use" is defined in the
4 Gross Receipts and Compensating Tax Act, and required to be
5 collected by the department at the same time and in the same
6 manner as the compensating tax; "local option compensating tax"
7 includes the compensating taxes imposed pursuant to the
8 Municipal Local Option Gross Receipts Taxes Act, Supplemental
9 Municipal Gross Receipts Tax Act, County Local Option Gross
10 Receipts Taxes Act, Local Hospital Gross Receipts Tax Act,
11 County Correctional Facility Gross Receipts Tax Act and other
12 acts that may be enacted authorizing counties or municipalities
13 to impose taxes on the use of property, which taxes are to be
14 collected by the department at the same time and in the same
15 manner as it collects the compensating tax;

16 ~~[H.]~~ I. "local option gross receipts tax" means a
17 tax authorized to be imposed by a county or municipality upon
18 the taxpayer's gross receipts, as that term is defined in the
19 Gross Receipts and Compensating Tax Act, and required to be
20 collected by the department at the same time and in the same
21 manner as the gross receipts tax; "local option gross receipts
22 tax" includes the taxes imposed pursuant to the Municipal Local
23 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
24 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,
25 Local Hospital Gross Receipts Tax Act, County Correctional

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1 Facility Gross Receipts Tax Act and such other acts [~~as~~] that
2 may be enacted authorizing counties or municipalities to impose
3 taxes on gross receipts, which taxes are to be collected by the
4 department in the same time and in the same manner as it
5 collects the gross receipts tax;

6 [~~F.~~] J. "managed audit" means a review and analysis
7 conducted by a taxpayer under an agreement with the department
8 to determine the taxpayer's compliance with a tax administered
9 pursuant to the Tax Administration Act and the presentation of
10 the results to the department for assessment of tax found to be
11 due;

12 [~~J.~~] K. "net receipts" means the total amount of
13 money paid by taxpayers to the department in a month pursuant
14 to a tax or tax act less any refunds disbursed in that month
15 with respect to that tax or tax act;

16 [~~K.~~] L. "overpayment" means an amount paid,
17 pursuant to any law subject to administration and enforcement
18 under the provisions of the Tax Administration Act, by a person
19 to the department or withheld from the person in excess of tax
20 due from the person to the state at the time of the payment or
21 at the time the amount withheld is credited against tax due;

22 [~~L.~~] M. "paid" includes the term "paid over";

23 [~~M.~~] N. "pay" includes the term "pay over";

24 [~~N.~~] O. "payment" includes the term "payment over";

25 [~~O.~~] P. "person" means any individual, estate,

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1 trust, receiver, cooperative association, club, corporation,
2 company, firm, partnership, limited liability company, limited
3 liability partnership, joint venture, syndicate, other
4 association or gas, water or electric utility owned or operated
5 by a county or municipality; "person" also means, to the extent
6 permitted by law, a federal, state or other governmental unit
7 or subdivision, or an agency, department or instrumentality
8 thereof; and "person", as used in Sections 7-1-72 through
9 7-1-74 NMSA 1978, also includes an officer or employee of a
10 corporation, a member or employee of a partnership or any
11 individual who, as such, is under a duty to perform any act in
12 respect of which a violation occurs;

13 [P-] Q. "property" means property or rights to
14 property;

15 [Q-] R. "property or rights to property" means any
16 tangible property, real or personal, or any intangible property
17 of a taxpayer;

18 [R-] S. "secretary" means the secretary of taxation
19 and revenue and, except for purposes of Subsection B of Section
20 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978,
21 also includes the deputy secretary or a division director or
22 deputy division director delegated by the secretary;

23 [S-] T. "secretary or the secretary's delegate"
24 means the secretary or any employee of the department
25 exercising authority lawfully delegated to that employee by the

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1 secretary;

2 [F.] U. "security" means money, property or rights
3 to property or a surety bond;

4 [H.] V. "state" means any state of the United
5 States, the District of Columbia, the commonwealth of Puerto
6 Rico and any territory or possession of the United States;

7 [V.] W. "tax" means the total amount of each tax
8 imposed and required to be paid, withheld and paid or collected
9 and paid under provision of any law made subject to
10 administration and enforcement according to the provisions of
11 the Tax Administration Act and, unless the context otherwise
12 requires, includes the amount of any interest or civil penalty
13 relating thereto; "tax" also means any amount of any abatement
14 of tax made or any credit, rebate or refund paid or credited by
15 the department under any law subject to administration and
16 enforcement under the provisions of the Tax Administration Act
17 to any person contrary to law and includes, unless the context
18 requires otherwise, the amount of any interest or civil penalty
19 relating thereto;

20 [W.] X. "taxpayer" means a person liable for
21 payment of any tax, a person responsible for withholding and
22 payment or for collection and payment of any tax or a person to
23 whom an assessment has been made, if the assessment remains
24 unabated or the amount thereof has not been paid; and

25 [X.] Y. "tax return preparer" means a person who

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1 prepares for others for compensation or who employs one or more
2 persons to prepare for others for compensation any return of
3 income tax, a substantial portion of any return of income tax,
4 any claim for refund with respect to income tax or a
5 substantial portion of any claim for refund with respect to
6 income tax; provided that a person shall not be a "tax return
7 preparer" merely because such person:

8 (1) furnishes typing, reproducing or other
9 mechanical assistance;

10 (2) is an employee who prepares an income tax
11 return or claim for refund with respect to an income tax return
12 of the employer, or of an officer or employee of the employer,
13 by whom the person is regularly and continuously employed; or

14 (3) prepares as a trustee or other fiduciary
15 an income tax return or claim for refund with respect to income
16 tax for any person."

17 Section 2. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
18 Chapter 211, Section 17, as amended) is amended to read:

19 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
20 GROSS RECEIPTS TAXES--REVENUES FROM LOCAL OPTION COMPENSATING
21 TAXES.--

22 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
23 shall be made to each municipality for which the department is
24 collecting a local option gross receipts tax imposed by that
25 municipality in an amount, subject to [~~any~~] an increase or

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1 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to
2 the net receipts attributable to the local option gross
3 receipts tax imposed by that municipality, less any deduction
4 for administrative [~~cost determined and made by the department~~
5 ~~pursuant to the provisions of the act authorizing imposition by~~
6 ~~that municipality of the local option gross receipts tax and~~
7 ~~any additional administrative fee withheld pursuant to~~
8 ~~Subsection C of Section 7-1-6.41 NMSA 1978]~~ fees withheld
9 pursuant to this section and less disbursements for tax
10 credits, refunds and payment of interest applicable to the tax.

11 B. A transfer pursuant to this section may be
12 adjusted for a distribution made to a tax increment development
13 district with respect to a portion of a gross receipts tax
14 increment dedicated by a municipality pursuant to the Tax
15 Increment for Development Act.

16 C. A transfer pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to a municipality for which the department is
18 collecting a local option compensating tax imposed by that
19 municipality in an amount, subject to increases or decreases
20 occurring pursuant to Section 7-1-6.15 NMSA 1978, equal to the
21 net receipts attributable to the local option compensating tax
22 imposed by that municipality, less deductions for
23 administrative fees due and less disbursements for tax credits,
24 refunds and payment of interest applicable to the tax.

25 D. As a charge for administrative costs, the

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1 department shall deduct from the amounts to be transferred to a
2 municipality pursuant to this section administrative fees in an
3 amount equal to three percent of the net amount to be
4 transferred after deduction or disbursements for tax credits,
5 refunds and payment of interest applicable to the taxes but
6 prior to deduction of the administrative fees deducted pursuant
7 to this subsection."

8 Section 3. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
9 Chapter 211, Section 18, as amended) is amended to read:

10 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
11 GROSS RECEIPTS TAXES--REVENUES FROM COUNTY LOCAL OPTION
12 COMPENSATING TAXES.--

13 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
14 shall be made to each county for which the department is
15 collecting a local option gross receipts tax imposed by that
16 county in an amount, subject to any increase or decrease made
17 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
18 receipts attributable to the local option gross receipts tax
19 imposed by that county, less any deduction for administrative
20 ~~[cost determined and made by the department pursuant to the~~
21 ~~provisions of the act authorizing imposition by that county of~~
22 ~~the local option gross receipts tax and any additional~~
23 ~~administrative fee withheld pursuant to Subsection C of Section~~
24 ~~7-1-6.41 NMSA 1978]~~ fees withheld pursuant to this section and
25 less disbursements for tax credits, refunds and payments of

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1 interest applicable to the tax.

2 B. A transfer pursuant to this section may be
3 adjusted for a distribution made to a tax increment development
4 district with respect to a portion of a gross receipts tax
5 increment dedicated by a county pursuant to the Tax Increment
6 for Development Act.

7 C. A transfer pursuant to Section 7-1-6.1 NMSA 1978
8 shall be made to a county for which the department is
9 collecting a local option compensating tax imposed by that
10 county in an amount, subject to increases or decreases
11 occurring pursuant to Section 7-1-6.15 NMSA 1978, equal to the
12 net receipts attributable to the local option compensating tax
13 imposed by that county, less deductions for administrative fees
14 withheld pursuant to this section and less disbursements for
15 tax credits, refunds and payment of interest applicable to the
16 tax.

17 D. As a charge for administrative costs, the
18 department shall deduct from the amounts to be transferred to a
19 county pursuant to this section administrative fees in an
20 amount equal to three percent of the net amount to be
21 transferred after deduction of disbursements for tax credits,
22 refunds and payment of interest applicable to the taxes but
23 prior to deduction of the administrative fees deducted pursuant
24 to this subsection."

25 Section 4. Section 7-1-6.15 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 20, as amended) is amended to read:

2 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
3 MUNICIPALITIES OR COUNTIES.--

4 A. The provisions of this section apply to:

5 (1) [~~any~~] a distribution to a municipality of
6 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
7 of interstate telecommunications gross receipts tax pursuant to
8 Section 7-1-6.36 NMSA 1978;

9 (2) [~~any~~] a transfer to a municipality with
10 respect to [~~any~~] a local option gross receipts tax or a local
11 option compensating tax imposed by that municipality;

12 (3) [~~any~~] a transfer to a county with respect
13 to [~~any~~] a local option gross receipts tax or a local option
14 compensating tax imposed by that county;

15 (4) [~~any~~] a distribution to a county pursuant
16 to Section 7-1-6.16 NMSA 1978;

17 (5) [~~any~~] a distribution to a municipality or
18 a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA
19 1978;

20 (6) [~~any~~] a transfer to a county with respect
21 to [~~any~~] a tax imposed in accordance with the Local Liquor
22 Excise Tax Act;

23 (7) [~~any~~] a distribution to a municipality or
24 a county of cigarette taxes pursuant to Sections 7-1-6.11,
25 7-12-15 and 7-12-16 NMSA 1978;

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1 (8) [~~any~~] a distribution to a county from the
2 county government road fund pursuant to Section 7-1-6.26 NMSA
3 1978;

4 (9) [~~any~~] a distribution to a municipality of
5 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

6 (10) [~~any~~] a distribution to a municipality,
7 county, school district or special district of oil and gas ad
8 valorem production tax reduced as a result of a refund
9 requested in December 1998 with respect to production of carbon
10 dioxide.

11 B. If the secretary determines that [~~any~~] a prior
12 distribution or transfer to a political subdivision was
13 erroneous, the secretary shall increase or decrease the next
14 distribution or transfer amount for that political subdivision
15 after the determination, except as provided in Subsection C, D
16 or E of this section, by the amount necessary to correct the
17 error. Subject to the provisions of Subsection E of this
18 section, the secretary shall notify the political subdivision
19 of the amount of each increase or decrease.

20 C. No decrease shall be made to current or future
21 distributions or transfers to a political subdivision for [~~any~~]
22 an excess distribution or transfer made to that political
23 subdivision more than one year prior to the calendar year in
24 which the determination of the secretary was made.

25 D. The secretary, in lieu of recovery from the next

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1 distribution or transfer amount, may recover an excess
2 distribution or transfer of one hundred dollars (\$100) or more
3 to the political subdivision in installments from current and
4 future distributions or transfers to that political subdivision
5 pursuant to an agreement with the officials of the political
6 subdivision whenever the amount of the distribution or transfer
7 decrease for the political subdivision exceeds ten percent of
8 the average distribution or transfer amount for that political
9 subdivision for the twelve months preceding the month in which
10 the secretary's determination is made; provided that for the
11 purposes of this subsection, the "average distribution or
12 transfer amount" shall be the arithmetic mean of the
13 distribution or transfer amounts within the twelve months
14 immediately preceding the month in which the determination is
15 made.

16 E. Except for the provisions of this section, if
17 the amount by which a distribution or transfer would be
18 adjusted pursuant to Subsection B of this section is one
19 hundred dollars (\$100) or less, no adjustment or notice need be
20 made.

21 F. The secretary is authorized to decrease a
22 distribution to a municipality or county upon being directed
23 to do so by the secretary of finance and administration
24 pursuant to the State Aid Intercept Act or to redirect a
25 distribution to the New Mexico finance authority pursuant to

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1 an ordinance or a resolution passed by the county or
2 municipality and a written agreement of the municipality or
3 county and the New Mexico finance authority. Upon direction
4 to decrease a distribution or notice to redirect a
5 distribution to a municipality or county, the secretary shall
6 decrease or redirect the next designated distribution, and
7 succeeding distributions as necessary, by the amount of the
8 state distributions intercept authorized by the secretary of
9 finance and administration pursuant to the State Aid
10 Intercept Act or by the amount of the state distribution
11 intercept authorized pursuant to an ordinance or a resolution
12 passed by the county or municipality and a written agreement
13 with the New Mexico finance authority. The secretary shall
14 transfer the state distributions intercept amount to the
15 municipal or county treasurer or other person designated by
16 the secretary of finance and administration or to the New
17 Mexico finance authority pursuant to written agreement to pay
18 the debt service to avoid default on qualified local revenue
19 bonds or to meet other local revenue bond, loan or other debt
20 obligations of the municipality or county to the New Mexico
21 finance authority."

22 Section 5. A new section of the Tax Administration Act
23 is enacted to read:

24 "[NEW MATERIAL] LOCATION OF USE.--

25 A. For compensating tax and local option

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1 compensating tax purposes, use of property occurs in the
2 jurisdiction in which:

3 (1) the buyer's place of business is located
4 if the buyer is engaging in business in New Mexico and uses
5 the property in furtherance of that business;

6 (2) the buyer's principal office is located
7 if the buyer is the state or a local government or an agency
8 or instrumentality of the state or a local government; or

9 (3) the buyer's residence is located if the
10 buyer is not engaging in business in New Mexico or does not
11 use the property in furtherance of the buyer's business.

12 B. The department shall promulgate regulations to
13 determine where use will be attributed when the buyer has
14 more than one business in New Mexico."

15 Section 6. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
16 Chapter 45, Section 1, as amended) is amended to read:

17 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
18 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX
19 LIABILITIES.--

20 A. The department shall take no action to enforce
21 collection of compensating tax or local option compensating
22 taxes due on purchases made by an individual if:

23 (1) the property is used only for
24 nonbusiness purposes;

25 (2) the property is not a manufactured home;

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1 and

2 (3) the individual is not an agent for
3 collection of compensating tax pursuant to Section 7-9-10
4 NMSA 1978.

5 B. The prohibition in Subsection A of this
6 section does not prevent the department from enforcing
7 collection of compensating tax or local option compensating
8 taxes on purchases from persons who are not individuals, who
9 are agents for collection pursuant to Section 7-9-10 NMSA
10 1978 or who use the property in the course of engaging in
11 business in New Mexico or from enforcing collection of
12 compensating tax or local option compensating taxes due on
13 [~~purchase~~] purchases of manufactured homes."

14 Section 7. Section 7-9-9 NMSA 1978 (being Laws 1966,
15 Chapter 47, Section 9, as amended) is amended to read:

16 "7-9-9. LIABILITY OF USER FOR PAYMENT [~~OF~~]
17 COMPENSATING TAX--LOCAL OPTION COMPENSATING TAX.--

18 [~~Any~~] A. A person in New Mexico using property on
19 the value of which compensating tax or local option
20 compensating tax is payable but has not been paid is liable
21 to the state for payment of the compensating tax [~~but this~~
22 ~~liability is discharged if the buyer has paid the~~
23 ~~compensating tax to the seller for payment over to the~~
24 ~~department~~] and local option compensating tax due.

25 B. A person's compensating tax and local option

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1 compensating tax liability is discharged if the buyer has
2 paid the compensating tax and local option compensating tax,
3 if any is due, to the seller for payment over to the
4 department."

5 Section 8. Section 7-19-11 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 2, as amended) is amended to read:

7 "7-19-11. DEFINITIONS.--As used in the Supplemental
8 Municipal Gross Receipts Tax Act:

9 A. "department" or "division" means the taxation
10 and revenue department, the secretary of taxation and revenue
11 or any employee of the department exercising authority
12 lawfully delegated to that employee by the secretary;

13 B. "governing body" means the city council or
14 city commission of a municipality;

15 C. "municipality" means any incorporated city,
16 town or village having previously qualified to impose and did
17 impose the tax pursuant to the provisions of the Supplemental
18 Municipal Gross Receipts Tax Act in effect prior to [~~this~~
19 ~~1997 act~~] the enactment of Laws 1997, Chapter 219;

20 D. "person" means an individual or any other
21 legal entity;

22 E. "refunding bonds" means bonds issued pursuant
23 to the provisions of the Supplemental Municipal Gross
24 Receipts Tax Act to refund supplemental municipal gross
25 receipts tax bonds issued pursuant to the provisions of that

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1 act;

2 F. "state compensating tax" means the
3 compensating tax imposed pursuant to the Gross Receipts and
4 Compensating Tax Act;

5 [~~F-~~] G. "state gross receipts tax" means the
6 gross receipts tax imposed under the Gross Receipts and
7 Compensating Tax Act; [~~and~~]

8 H. "supplemental municipal compensating tax"
9 means the use tax authorized to be imposed by the
10 Supplemental Municipal Gross Receipts Tax Act; and

11 [~~G-~~] I. "supplemental municipal gross receipts
12 tax" means the tax authorized to be imposed under the
13 Supplemental Municipal Gross Receipts Tax Act."

14 Section 9. Section 7-19-12 NMSA 1978 (being Laws 1979,
15 Chapter 397, Section 3, as amended) is amended to read:

16 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL
17 MUNICIPAL GROSS RECEIPTS TAX AND SUPPLEMENTAL MUNICIPAL
18 COMPENSATING TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
19 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED.--

20 A. The majority of the members elected to the
21 governing body of a municipality may enact an ordinance
22 imposing an excise tax on [~~any~~] a person engaging in business
23 in the municipality for the privilege of engaging in business
24 in the municipality. This tax is to be referred to as the
25 "supplemental municipal gross receipts tax". The rate of the

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1 tax shall not exceed one percent of the gross receipts of the
2 person engaging in business and shall be imposed in one-
3 fourth percent increments if less than one percent.

4 B. An ordinance imposing a supplemental municipal
5 gross receipts tax pursuant to this section shall also impose
6 a tax for the privilege of using property in the municipality
7 if the use is subject to the state compensating tax. The tax
8 imposed pursuant to the provisions of this subsection may be
9 referred to as the "supplemental municipal compensating tax".
10 The rate of the supplemental municipal compensating tax
11 imposed pursuant to this subsection shall be the same as the
12 rate of the supplemental municipal gross receipts tax imposed
13 pursuant to this section.

14 C. If, on July 1, 2007, a municipality has in
15 effect a supplemental municipal gross receipts tax, a
16 supplemental municipal compensating tax is hereby imposed,
17 effective July 1, 2007, at the same rate as the supplemental
18 municipal gross receipts tax.

19 ~~[B.]~~ D. The governing body of a municipality
20 enacting an ordinance imposing the ~~[tax]~~ taxes authorized in
21 ~~[Subsection A]~~ Subsections A and B of this section shall
22 submit the question of imposing ~~[such tax]~~ the taxes and the
23 question of the issuance of supplemental municipal gross
24 receipts bonds in an amount not to exceed nine million
25 dollars (\$9,000,000), for which the revenue from the

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1 supplemental municipal gross receipts tax and the
2 supplemental municipal compensating tax is dedicated, to the
3 qualified electors of the municipality at a regular or
4 special election.

5 ~~[G.]~~ E. The ballot questions referred to in
6 Subsection ~~[B]~~ D of this section shall be submitted to a vote
7 of the qualified electors of the municipality as two separate
8 ballot questions ~~[which]~~ and shall be substantially in the
9 following form:

10 (1) "Shall the municipality be authorized to
11 issue supplemental municipal gross receipts bonds in an
12 amount of not exceeding _____ dollars for the
13 purpose of constructing and equipping and otherwise acquiring
14 a municipal water supply system?

15 For _____ Against _____"; and

16 (2) "Shall the municipality impose an excise
17 tax for the privilege of engaging in business in the
18 municipality, which shall be known as the "supplemental
19 municipal gross receipts tax", and an excise tax on the use
20 of property in the municipality, which shall be known as the
21 "supplemental municipal compensating tax", both of which
22 shall be imposed at a rate of _____ percent ~~[of the~~
23 ~~gross receipts of the person engaging in business]~~, the
24 proceeds of which are dedicated to the payment of
25 supplemental municipal gross receipts bonds?

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1 For _____ Against _____".

2 [~~D.~~] F. Only those voters who are registered
3 electors who reside within the municipality shall be
4 permitted to vote on these two questions. The procedures for
5 conducting the election shall be substantially the same as
6 the applicable provisions in Sections 3-30-1, 3-30-6 and
7 3-30-7 NMSA 1978 relating to municipal debt.

8 [~~E.~~] G. If at an election called pursuant to this
9 section a majority of the voters voting on each of the two
10 questions [~~vote~~] votes in the affirmative on each [~~such~~]
11 question, [~~then~~] the ordinance imposing the supplemental
12 municipal gross receipts tax and the supplemental municipal
13 compensating tax shall be approved. If at [~~such~~] the
14 election a majority of the voters voting on [~~such~~] the
15 questions [~~fail~~] fails to approve [~~any~~] one of the questions,
16 [~~then~~] the ordinance imposing the [~~tax~~] taxes shall be
17 disapproved and the questions required to be submitted by
18 [~~Subsection B of~~] this section shall not be submitted to the
19 voters for a period of one year from the date of the
20 election.

21 [~~F. Any~~] H. An ordinance enacted under the
22 provisions of this section shall include an effective date of
23 either July 1 or January 1, whichever date occurs first after
24 the expiration of at least [~~five~~] three months from the date
25 of the election. A certified copy of [~~any~~] an ordinance

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1 imposing a supplemental municipal gross receipts tax and a
2 supplemental municipal compensating tax shall be mailed to
3 the [~~division~~] department within five days after the
4 ordinance is adopted by the approval by the electorate.
5 [~~Any~~] An ordinance repealing the imposition of a tax under
6 the provisions of the Supplemental Municipal Gross Receipts
7 Tax Act shall become effective on either July 1 or January 1,
8 after the expiration of at least [~~five~~] three months from the
9 date the ordinance is repealed by the governing body.

10 [~~G-~~] I. Nothing in this section is intended to or
11 does alter the effectiveness or validity of [~~any~~] actions
12 taken in accordance with Subsection G of Section 80 of
13 Chapter 20 of Laws 1986."

14 Section 10. Section 7-19-13 NMSA 1978 (being Laws 1979,
15 Chapter 397, Section 4) is amended to read:

16 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
17 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
18 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT.--

19 A. [~~Any~~] An ordinance imposing a supplemental
20 municipal gross receipts tax and a supplemental municipal
21 compensating tax shall adopt by reference the same
22 definitions and the same provisions relating to exemptions
23 and deductions as are contained in the Gross Receipts and
24 Compensating Tax Act then in effect and as it may be amended
25 from time to time.

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1 B. The governing body of ~~[any]~~ a municipality
2 imposing or increasing the supplemental municipal gross
3 receipts tax ~~[must]~~ and the supplemental municipal
4 compensating tax shall adopt the language of the model
5 ordinance furnished to the municipality by the ~~[division]~~
6 department for the portion of the ordinance relating to the
7 ~~[tax]~~ taxes."

8 Section 11. A new section of the Supplemental Municipal
9 Gross Receipts Tax Act, Section 7-19-14.1 NMSA 1978, is
10 enacted to read:

11 "7-19-14.1. [NEW MATERIAL] SUPPLEMENTAL MUNICIPAL
12 COMPENSATING TAX--ADDITIONAL EXEMPTION--TANGIBLE PERSONAL
13 PROPERTY SUBJECT TO DEPRECIATION.--

14 A. Exempted from the supplemental municipal
15 compensating tax is the use of tangible personal property
16 that:

17 (1) is subject to depreciation for federal
18 income tax purposes; and

19 (2) at the time of acquisition or
20 introduction into New Mexico, could not be obtained from
21 sources within New Mexico.

22 B. The department, by regulation or instruction,
23 may prescribe one or more methods by which the user of the
24 property may certify that the property meets the conditions
25 of Paragraph (2) of Subsection A of this section."

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1 Section 12. Section 7-19-15 NMSA 1978 (being Laws 1979,
2 Chapter 397, Section 6, as amended) is amended to read:

3 "7-19-15. COLLECTION BY DEPARTMENT--TRANSFER OF
4 PROCEEDS--DEDUCTIONS.--

5 A. The department shall collect the supplemental
6 municipal gross receipts tax in the same manner and at the
7 same time it collects the state gross receipts tax. The
8 department shall collect the supplemental municipal
9 compensating tax in the same manner and at the same time it
10 collects the state compensating tax.

11 B. The department shall withhold [~~an~~]
12 administrative [~~fee pursuant to Section 1 of this 1997 act~~]
13 fees of three percent of the net amount to be transferred
14 after deductions or disbursements for tax credits, refunds
15 and payment of interest applicable to the taxes but prior to
16 deduction of the administrative fees that are required to be
17 withheld pursuant to this section.

18 C. The department shall transfer to each
19 municipality for which it is collecting a supplemental
20 municipal gross receipts tax and a supplemental municipal
21 compensating tax an amount equal to the amount of the [~~tax~~]
22 taxes collected less the administrative fee withheld and less
23 any disbursements for tax credits, refunds and the payment of
24 interest applicable to the supplemental municipal gross
25 receipts tax and the supplemental municipal compensating tax.

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1 Transfer of the [~~tax~~] taxes to a municipality shall be made
2 within the month following the month in which the [~~tax is~~]
3 taxes are collected pursuant to the provisions of Section
4 7-1-6.12 NMSA 1978."

5 Section 13. Section 7-19-16 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 7) is amended to read:

7 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
8 ENFORCEMENT OF [~~TAX~~] TAXES.--

9 A. The [~~division~~] department shall interpret the
10 provisions of the Supplemental Municipal Gross Receipts Tax
11 Act.

12 B. The [~~division~~] department shall administer and
13 enforce the collection of the supplemental municipal gross
14 receipts tax and the supplemental municipal compensating tax.
15 The Tax Administration Act applies to the administration and
16 enforcement of the [~~tax~~] taxes authorized to be imposed
17 pursuant to the Supplemental Municipal Gross Receipts Tax
18 Act."

19 Section 14. Section 7-19-18 NMSA 1978 (being Laws 1979,
20 Chapter 397, Section 9, as amended) is amended to read:

21 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX AND
22 SUPPLEMENTAL MUNICIPAL COMPENSATING TAX--USE OF PROCEEDS--
23 RESTRICTION.--

24 A. The proceeds from the supplemental municipal
25 gross receipts tax and the supplemental municipal

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1 compensating tax shall be deposited in a special improvement
2 account of the municipality and shall be used only for:

3 (1) the payment of the principal of,
4 interest on, any prior redemption premiums due in connection
5 with and other expenses related to the supplemental municipal
6 gross receipts bonds issued pursuant to the Supplemental
7 Municipal Gross Receipts Tax Act;

8 (2) the funding of [~~any~~] reserves and other
9 accounts in connection with [~~such~~] those bonds;

10 (3) refunding bonds; and

11 (4) to the extent not needed for those
12 purposes, the improvement of the municipality's water system.

13 B. When [~~any~~] an issue of supplemental municipal
14 gross receipts bonds is fully paid, the supplemental
15 municipal gross receipts tax and the supplemental municipal
16 compensating tax shall cease to be imposed for that issue,
17 but may continue to be imposed for bonds enacted and approved
18 pursuant to Section 7-19-12 NMSA 1978 and thereafter issued,
19 or for refunding bonds issued pursuant to Section [~~4 of this~~
20 ~~1997 act~~] 7-19-17.1 NMSA 1978. Any money remaining in a
21 special improvement account after the obligations for
22 supplemental municipal gross receipts bonds and refunding
23 bonds are fully paid may be transferred to any other fund of
24 the municipality."

25 Section 15. Section 7-19D-2 NMSA 1978 (being Laws 1993,

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1 Chapter 346, Section 2) is amended to read:

2 "7-19D-2. DEFINITIONS.--As used in the Municipal Local
3 Option Gross Receipts Taxes Act:

4 A. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any
6 employee of the department exercising authority lawfully
7 delegated to that employee by the secretary;

8 B. "governing body" means the city council or
9 city commission of a city, the board of trustees of a town or
10 village and the board of county commissioners of H-class
11 counties;

12 C. "local option gross receipts tax" means a
13 gross receipts tax authorized to be imposed by a municipality
14 pursuant to the Municipal Local Option Gross Receipts Taxes
15 Act;

16 D. "local option municipal compensating tax"
17 means a compensating tax authorized to be imposed by a
18 municipality pursuant to the Municipal Local Option Gross
19 Receipts Taxes Act;

20 [~~C.~~] E. "municipality" means any incorporated
21 city, town or village, whether incorporated under general
22 act, special act or special charter, and an H-class county;

23 [~~D.~~] F. "person" means an individual or any other
24 legal entity; [~~and~~]

25 G. "state compensating tax" means the

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1 compensating tax imposed pursuant to the provisions of the
2 Gross Receipts and Compensating Tax Act; and

3 ~~[E.]~~ H. "state gross receipts tax" means the
4 gross receipts tax imposed ~~[under]~~ pursuant to the provisions
5 of the Gross Receipts and Compensating Tax Act."

6 Section 16. Section 7-19D-3 NMSA 1978 (being Laws 1993,
7 Chapter 346, Section 3) is amended to read:

8 "7-19D-3. MANDATORY ENACTMENT OF LOCAL OPTION MUNICIPAL
9 COMPENSATING TAX WITH LOCAL OPTION GROSS RECEIPTS TAX

10 IMPOSITION--EFFECTIVE DATE OF ORDINANCE.--An ordinance
11 imposing, amending or repealing a tax or an increment of tax
12 authorized by the Municipal Local Option Gross Receipts Taxes
13 Act shall:

14 A. also impose, amend or repeal a local option
15 municipal compensating tax at the same rate as stated in the
16 imposition, amendment or repeal of the local option gross
17 receipts tax included in the ordinance;

18 B. be effective on July 1 or January 1, whichever
19 date occurs first after the expiration of at least three
20 months from the date the adopted ordinance is mailed or
21 delivered to the department ~~[The ordinance shall];~~ and

22 C. include ~~[that]~~ the effective date of the
23 ordinance and the taxes."

24 Section 17. A new section of the Municipal Local Option
25 Gross Receipts Taxes Act, Section 7-19D-5.1 NMSA 1978, is

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1 enacted to read:

2 "7-19D-5.1. [NEW MATERIAL] LOCAL OPTION MUNICIPAL
3 COMPENSATING TAXES--ADDITIONAL EXEMPTION.--

4 A. Exempted from local option municipal
5 compensating taxes is the use of tangible personal property
6 that:

7 (1) is subject to depreciation for federal
8 income tax purposes; and

9 (2) at the time of acquisition or
10 introduction into New Mexico, could not be obtained from
11 sources within New Mexico.

12 B. The department, by regulation or instruction,
13 may prescribe one or more methods by which the user of
14 property may certify that the property meets the conditions
15 of Paragraph (2) of Subsection A of this section."

16 Section 18. Section 7-19D-7 NMSA 1978 (being Laws 1993,
17 Chapter 346, Section 7, as amended) is amended to read:

18 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
19 PROCEEDS--DEDUCTIONS.--

20 A. The department shall collect each local option
21 gross receipts tax imposed pursuant to the provisions of the
22 Municipal Local Option Gross Receipts Taxes Act in the same
23 manner and at the same time it collects the state gross
24 receipts tax. The department shall collect each local option
25 municipal compensating tax in each same manner and at the

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1 same time it collects the state compensating tax.

2 B. Except as provided in Subsection C of this
3 section, the department shall withhold ~~[an]~~ administrative
4 ~~[fee pursuant to Section 1 of this 1997 act]~~ fees of three
5 percent of the net amount to be transferred after deductions
6 or disbursements for tax credits, refunds and payment of
7 interest applicable to the taxes but prior to deduction of
8 the administrative fees that are required to be withheld
9 pursuant to this section.

10 C. The department shall transfer to each
11 municipality for which it is collecting a tax pursuant to the
12 provisions of the Municipal Local Option Gross Receipts Taxes
13 Act the amount of each tax collected for that municipality,
14 less the administrative fee withheld and less any
15 disbursements for tax credits, refunds and the payment of
16 interest applicable to the tax ~~[The transfer to the~~
17 ~~municipality shall be made within the month following the~~
18 ~~month in which the tax is collected]~~ pursuant to the
19 provisions of Section 7-1-6.12 NMSA 1978.

20 ~~[G.]~~ D. With respect to the municipal gross
21 receipts tax imposed by a municipality pursuant to Section
22 7-19D-9 NMSA 1978, the department shall withhold the
23 administrative fee imposed pursuant to this section ~~[1 of~~
24 ~~this 1997 act]~~ only on that portion of the ~~[municipal]~~ local
25 option gross receipts tax or local option municipal

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1 compensating tax arising from a municipal gross receipts tax
2 rate or local option municipal compensating tax rate in
3 excess of one-half of one percent."

4 Section 19. A new section of the Municipal Local Option
5 Gross Receipts Taxes Act, Section 7-19D-16 NMSA 1978, is
6 enacted to read:

7 "7-19D-16. [NEW MATERIAL] LOCAL OPTION MUNICIPAL
8 COMPENSATING TAX--MANDATORY SIMULTANEOUS IMPOSITION--RATE.--

9 A. An ordinance imposing, increasing or repealing
10 a local option gross receipts tax imposed by the Municipal
11 Local Option Gross Receipts Taxes Act shall also impose,
12 increase or repeal a tax for the privilege of using property
13 in the municipality if the use of the property is subject to
14 the state compensating tax. A use tax imposed pursuant to
15 this section may be referred to as a "local option municipal
16 compensating tax".

17 B. The rate of a local option municipal
18 compensating tax imposed, increased or repealed shall be the
19 same as the rate of the local option gross receipts tax with
20 which the local option municipal compensating tax is
21 simultaneously imposed, increased or repealed.

22 C. In an election on approval of the imposition,
23 increase or repeal of a tax authorized to be imposed by the
24 Municipal Local Option Gross Receipts Taxes Act, the ballot
25 shall clearly indicate that the question concerns the

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1 simultaneous imposition, increase or repeal of a local option
2 gross receipts tax and a local option municipal compensating
3 tax. The specific local option gross receipts tax being
4 imposed, increased or repealed shall be identified in the
5 ballot question.

6 D. If, on July 1, 2007, a municipality has in
7 effect a local option gross receipts tax authorized by the
8 Municipal Local Option Gross Receipts Taxes Act, a local
9 option municipal compensating tax is hereby imposed at the
10 same rate as the existing local option gross receipts tax
11 causing the automatic imposition of the local option
12 municipal compensating tax. A local option municipal
13 compensating tax imposed by this subsection is effective on
14 July 1, 2007.

15 E. A local option municipal compensating tax
16 imposed pursuant to the Municipal Local Option Gross Receipts
17 Taxes Act shall be referred to individually by reference to
18 the local option gross receipts tax with which the local
19 option municipal compensating tax was simultaneously imposed
20 or by reference to the local option gross receipts tax that
21 was in effect on July 1, 2007 and caused the automatic
22 imposition of the local option municipal compensating tax
23 pursuant to Subsection D of this section."

24 Section 20. Section 7-20C-1 NMSA 1978 (being Laws 1991,
25 Chapter 176, Section 1) is amended to read:

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1 "7-20C-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~
2 ~~act]~~ Chapter 7, Article 20C NMSA 1978 may be cited as the
3 "Local Hospital Gross Receipts Tax Act"."

4 Section 21. Section 7-20C-2 NMSA 1978 (being Laws 1991,
5 Chapter 176, Section 2, as amended) is amended to read:

6 "7-20C-2. DEFINITIONS.--As used in the Local Hospital
7 Gross Receipts Tax Act:

8 A. "county" means:

9 (1) a class B county having a population of
10 less than twenty-five thousand according to the most recent
11 federal decennial census and having a net taxable value for
12 rate-setting purposes for the 1990 property tax year or any
13 subsequent year of more than two hundred fifty million
14 dollars (\$250,000,000);

15 (2) a class B county having a population of
16 less than forty-seven thousand but more than forty-four
17 thousand according to the 1990 federal decennial census and
18 having a net taxable value for rate-setting purposes for the
19 1992 property tax year of more than three hundred million
20 dollars (\$300,000,000) but less than six hundred million
21 dollars (\$600,000,000);

22 (3) a class B county having a population of
23 less than ten thousand according to the most recent federal
24 decennial census and having a net taxable value for rate-
25 setting purposes for the 1990 property tax year or any

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1 subsequent year of more than one hundred million dollars
2 (\$100,000,000);

3 (4) a class B county having a population of
4 less than twenty-five thousand according to the 1990 federal
5 decennial census and having a net taxable value for rate-
6 setting purposes for the 1993 property tax year of more than
7 ninety-one million dollars (\$91,000,000) but less than one
8 hundred twenty-five million dollars (\$125,000,000);

9 (5) a class B county having a population of
10 more than seventeen thousand but less than twenty thousand
11 according to the 1990 federal decennial census and having a net
12 taxable value for rate-setting purposes for the 1993 property
13 tax year of more than one hundred fifty-three million dollars
14 (\$153,000,000) but less than one hundred fifty-six million
15 dollars (\$156,000,000);

16 (6) a class B county having a population of
17 more than fifteen thousand according to the 1990 federal
18 decennial census and having a net taxable value for rate-
19 setting purposes for the 1996 property tax year of more than
20 one hundred fifty million dollars (\$150,000,000) but less than
21 one hundred seventy-five million dollars (\$175,000,000);

22 (7) an H class county; or

23 (8) a class A county having a population of
24 less than one hundred fifteen thousand according to the 2000
25 federal decennial census or any subsequent federal decennial

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1 census and having a net taxable value for rate-setting purposes
2 for the 2001 property tax year or any subsequent year of more
3 than three billion dollars (\$3,000,000,000);

4 B. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any
6 employee of the department exercising authority lawfully
7 delegated to that employee by the secretary;

8 C. "governing body" means the board of county
9 commissioners of a county;

10 D. "health care facilities contract" means an
11 agreement between a hospital or health clinic not owned by the
12 county and a county imposing the tax authorized by the Local
13 Hospital Gross Receipts Tax Act that obligates the county to
14 pay to the hospital revenue generated by the tax authorized in
15 that act as consideration for the agreement by the hospital or
16 health clinic to use the funds only for nonsectarian purposes
17 and to make health care services available for the benefit of
18 the county;

19 E. "hospital facility revenues" means all or a
20 portion of the revenues derived from a lease of a hospital
21 facility acquired, constructed or equipped pursuant to and
22 operated in accordance with the Local Hospital Gross Receipts
23 Tax Act;

24 F. "local hospital compensating tax" means the tax
25 on the use of property authorized to be imposed under the Local

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1 Hospital Gross Receipts Tax Act;

2 ~~[F.]~~ G. "local hospital gross receipts tax" means
3 the gross receipts tax authorized to be imposed under the Local
4 Hospital Gross Receipts Tax Act;

5 ~~[G.]~~ H. "person" means an individual or any other
6 legal entity; ~~[and]~~

7 I. "state compensating tax" means the compensating
8 tax imposed under the Gross Receipts and Compensating Tax Act;
9 and

10 ~~[H.]~~ J. "state gross receipts tax" means the gross
11 receipts tax imposed under the Gross Receipts and Compensating
12 Tax Act."

13 Section 22. A new section of the Local Hospital
14 Compensating Tax Act, Section 7-20C-3.1 NMSA 1978, is enacted
15 to read:

16 "7-20C-3.1. [NEW MATERIAL] LOCAL HOSPITAL COMPENSATING
17 TAX--MANDATORY SIMULTANEOUS IMPOSITION.--

18 A. An ordinance imposing, increasing or repealing a
19 local hospital gross receipts tax authorized by the Local
20 Hospital Gross Receipts Tax Act shall also impose, increase or
21 repeal a tax for the privilege of using property in the county
22 if the use of the property is subject to the state compensating
23 tax. The tax imposed by this section may be referred to as the
24 "local hospital compensating tax".

25 B. The rate of the local hospital compensating tax
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1 imposed, increased or repealed shall be the same as the rate of
2 the local hospital gross receipts tax with which the local
3 hospital compensating tax is simultaneously imposed, increased
4 or repealed.

5 C. In an election on the approval of the
6 imposition, increase or repeal of a tax authorized to be
7 imposed by the provisions of the Local Hospital Gross Receipts
8 Tax Act, the ballot shall clearly indicate that the question
9 concerns the simultaneous imposition, increase or repeal of
10 both a local hospital gross receipts tax and a local hospital
11 compensating tax.

12 D. If, on July 1, 2007, a county has in effect a
13 local hospital gross receipts tax, a local hospital
14 compensating tax is hereby imposed at the same rate as the
15 existing local hospital gross receipts tax. The local hospital
16 compensating tax is effective on July 1, 2007."

17 Section 23. A new section of the Local Hospital Gross
18 Receipts Tax Act, Section 7-20C-5.1 NMSA 1978, is enacted to
19 read:

20 "7-20C-5.1. [NEW MATERIAL] LOCAL HOSPITAL COMPENSATING
21 TAXES--ADDITIONAL EXEMPTION.--

22 A. Exempted from a local hospital compensating tax
23 is the use of tangible personal property that:

24 (1) is subject to depreciation for federal
25 income tax purposes; and

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1 (2) at the time of acquisition or introduction
2 into New Mexico, could not be obtained from sources within New
3 Mexico.

4 B. The department, by regulation or instruction,
5 may prescribe one or more methods by which the user of property
6 may certify that the property meets the conditions of Paragraph
7 (2) of Subsection A of this section."

8 Section 24. Section 7-20C-6 NMSA 1978 (being Laws 1991,
9 Chapter 176, Section 6, as amended) is amended to read:

10 "7-20C-6. COLLECTION BY DEPARTMENT--TRANSFER OF
11 PROCEEDS--DEDUCTIONS.--

12 A. The department shall collect the local hospital
13 gross receipts tax in the same manner and at the same time it
14 collects the state gross receipts tax. The department shall
15 collect the local hospital compensating tax in the same manner
16 and at the same time it collects the state compensating tax.

17 B. The department shall withhold [~~an~~]
18 administrative [~~fee pursuant to Section 7-1-6.41 NMSA 1978~~]
19 fees of three percent of the net amount to be transferred after
20 deductions or disbursements for tax credits, refunds and
21 payment of interest applicable to the taxes but prior to
22 deduction of the administrative fees that are required to be
23 withheld pursuant to this section. The department shall
24 transfer to each county for which it is collecting [~~such tax~~]
25 taxes imposed pursuant to the Local Hospital Gross Receipts Tax

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1 Act the amount of the [~~tax~~] taxes collected less the
2 administrative [~~fee~~] fees withheld and less any disbursements
3 for tax credits, refunds and the payment of interest applicable
4 to the [~~tax~~] taxes. Transfer of the [~~tax~~] taxes to a county
5 shall be made within the month following the month in which the
6 [~~tax-is~~] taxes are collected pursuant to the provisions of
7 Section 7-1-6.13 NMSA 1978."

8 Section 25. Section 7-20E-2 NMSA 1978 (being Laws 1993,
9 Chapter 354, Section 2, as amended by Laws 1994, Chapter 93,
10 Section 1 and also by Laws 1994, Chapter 97, Section 1) is
11 amended to read:

12 "7-20E-2. DEFINITIONS.--As used in the County Local
13 Option Gross Receipts Taxes Act:

14 A. "county" means, unless specifically defined
15 otherwise in the County Local Option Gross Receipts Taxes Act,
16 a county, including an H class county;

17 B. "county area" means that portion of a county
18 located outside the boundaries of any municipality, except that
19 for H class counties, "county area" means the entire county;

20 C. "department" means the taxation and revenue
21 department, the secretary of taxation and revenue or any
22 employee of the department exercising authority lawfully
23 delegated to that employee by the secretary;

24 D. "governing body" means the county commission of
25 the county or the county council of an H class county;

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1 E. "local option county compensating tax" means a
2 compensating tax authorized to be imposed by a county pursuant
3 to the County Local Option Gross Receipts Taxes Act;

4 F. "local option county gross receipts tax" means
5 the county gross receipts tax, the county emergency gross
6 receipts tax, the county hospital emergency gross receipts tax,
7 the special county hospital gross receipts tax, the county fire
8 protection excise tax, the county environmental services gross
9 receipts tax, the county health care gross receipts tax, the
10 county infrastructure gross receipts tax, the county education
11 gross receipts tax, the county capital outlay gross receipts
12 tax, the county emergency communications and emergency medical
13 services tax, the county regional transit gross receipts tax,
14 the quality of life gross receipts tax, the county regional
15 spaceport gross receipts tax or any other gross receipts tax
16 that is authorized to be imposed pursuant to the provisions of
17 the Local Option County Gross Receipts Taxes Act;

18 ~~[E.]~~ G. "person" means an individual or any other
19 legal entity; ~~[and]~~

20 H. "state compensating tax" means the compensating
21 tax imposed pursuant to the provisions of the Gross Receipts
22 and Compensating Tax Act; and

23 ~~[F.]~~ I. "state gross receipts tax" means the gross
24 receipts tax imposed under the Gross Receipts and Compensating
25 Tax Act."

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1 Section 26. A new section of the County Local Option
2 Gross Receipts Taxes Act, Section 7-20E-5.1 NMSA 1978, is
3 enacted to read:

4 "7-20E-5.1. [NEW MATERIAL] LOCAL OPTION COUNTY
5 COMPENSATING TAXES--ADDITIONAL EXEMPTION.--

6 A. Exempted from a local option county compensating
7 tax is the use of tangible personal property that:

8 (1) is subject to depreciation for federal
9 income tax purposes; and

10 (2) at the time of acquisition or introduction
11 into New Mexico, could not be obtained from sources within New
12 Mexico.

13 B. The department, by regulation or instruction,
14 may prescribe one or more methods by which the user of property
15 may certify that the property meets the conditions of Paragraph
16 (2) of Subsection A of this section."

17 Section 27. Section 7-20E-7 NMSA 1978 (being Laws 1993,
18 Chapter 354, Section 7, as amended) is amended to read:

19 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
20 PROCEEDS--DEDUCTIONS.--

21 A. The department shall collect each local option
22 county gross receipts tax imposed pursuant to the provisions of
23 the County Local Option Gross Receipts Taxes Act in the same
24 manner and at the same time it collects the state gross
25 receipts tax. The department shall collect each local option

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1 county compensating tax in the same manner and at the same time
2 it collects the state compensating tax.

3 B. The department shall withhold ~~[an]~~
4 administrative ~~[fee pursuant to Section 1 of this 1997 act]~~
5 fees of three percent of the net amount to be transferred after
6 deductions or disbursements for tax credits, refunds and
7 payment of interest applicable to the taxes but prior to
8 deduction of the administrative fees that are required to be
9 withheld pursuant to this section. The department shall
10 transfer to each county for which it is collecting a tax
11 pursuant to the provisions of the County Local Option Gross
12 Receipts Taxes Act the amount of each tax collected for that
13 county, less the administrative fee withheld and less any
14 disbursements for tax credits, refunds and the payment of
15 interest applicable to the tax. The transfer to the county
16 shall be made within the month following the month in which the
17 tax is collected pursuant to the provisions of Section 7-1-6.13
18 NMSA 1978."

19 Section 28. A new section of the County Local Option
20 Gross Receipts Taxes Act, Section 7-20E-8.1 NMSA 1978, is
21 enacted to read:

22 "7-20E-8.1. [NEW MATERIAL] LOCAL OPTION COUNTY
23 COMPENSATING TAX--MANDATORY SIMULTANEOUS IMPOSITION.--

24 A. An ordinance imposing, increasing or repealing a
25 local option county gross receipts tax authorized by the County
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1 Local Option Gross Receipts Taxes Act shall also impose,
2 increase or repeal a tax for the privilege of using property in
3 the county if the use of the property is subject to the state
4 compensating tax. A use tax imposed by this section may be
5 referred to as the "local option county compensating tax".

6 B. The rate of the local option county compensating
7 tax imposed, increased or repealed shall be the same as the
8 rate of the local option county gross receipts tax with which
9 the local option county compensating tax is simultaneously
10 imposed, increased or repealed.

11 C. In an election on the approval of the
12 imposition, increase or repeal of a tax authorized to be
13 imposed by the provisions of the County Local Option Gross
14 Receipts Taxes Act, the ballot shall clearly indicate that the
15 question concerns the simultaneous imposition, increase or
16 repeal of a local option county gross receipts tax and a local
17 option county compensating tax. The specific local option
18 county gross receipts tax being imposed, increased or repealed
19 shall be identified in the ballot question.

20 D. If, on July 1, 2007, a county has in effect a
21 local option county gross receipts tax imposed pursuant to the
22 County Local Option Gross Receipts Taxes Act, a local option
23 county compensating tax is hereby imposed at the same rate as
24 the existing local option county gross receipts tax causing the
25 automatic imposition of the local option county compensating

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1 tax. A local option county compensating tax imposed by this
2 subsection is effective on July 1, 2007.

3 E. A local option county compensating tax imposed
4 pursuant to the County Local Option Gross Receipts Taxes Act
5 shall be referred to individually by reference to the local
6 option county gross receipts tax with which the local option
7 county compensating tax was simultaneously imposed or by
8 reference to the local option county gross receipts tax that
9 was in effect on July 1, 2007 and caused the automatic
10 imposition of the local option county compensating tax pursuant
11 to Subsection D of this section."

12 Section 29. Section 7-20F-1 NMSA 1978 (being Laws 1993,
13 Chapter 303, Section 1) is amended to read:

14 "7-20F-1. SHORT TITLE.--~~[Sections 3 through 14 of this~~
15 ~~act]~~ Chapter 7, Article 20F NMSA 1978 may be cited as the
16 "County Correctional Facility Gross Receipts Tax Act"."

17 Section 30. Section 7-20F-2 NMSA 1978 (being Laws 1993,
18 Chapter 303, Section 2, as amended) is amended to read:

19 "7-20F-2. DEFINITIONS.--As used in the County
20 Correctional Facility Gross Receipts Tax Act:

- 21 A. "county" means a county of New Mexico;
22 B. "county board" means the board of county
23 commissioners of a county;
24 C. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 D. "judicial-correctional facility" means a
4 facility for housing and use by judicial and corrections
5 agencies, including housing for persons confined in county
6 correctional facilities; however, none of the facilities are
7 required to be located on the same or contiguous parcels of
8 land;

9 E. "municipality" means any incorporated city, town
10 or village, whether incorporated under general act, special act
11 or special charter;

12 F. "person" means an individual or any other legal
13 entity;

14 G. "pledged revenues" means the revenue, net income
15 or net revenues authorized to be pledged to the payment of
16 revenue bonds issued pursuant to the provisions of the County
17 Correctional Facility Gross Receipts Tax Act;

18 H. "refunding bond" means a refunding revenue bond
19 issued pursuant to the provisions of the County Correctional
20 Facility Gross Receipts Tax Act to refund revenue bonds issued
21 pursuant to the provisions of that act; [~~and~~]

22 I. "revenue bond" means a county correctional
23 facility gross receipts tax revenue bond;

24 J. "state compensating tax" means the compensating
25 tax imposed pursuant to the provisions of the Gross Receipts

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1 and Compensating Tax Act; and

2 K. "state gross receipts tax" means the gross
3 receipts tax imposed pursuant to the provisions of the Gross
4 Receipts and Compensating Tax Act."

5 Section 31. Section 7-20F-3 NMSA 1978 (being Laws 1993,
6 Chapter 303, Section 3, as amended) is amended to read:

7 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX
8 AND COUNTY CORRECTIONAL FACILITY COMPENSATING TAX--AUTHORITY
9 [~~TO IMPOSE~~] FOR SIMULTANEOUS IMPOSITION--RATE--ORDINANCE
10 REQUIREMENTS--REFERENDUM.--

11 A. The majority of the members elected to the
12 county board may enact an ordinance imposing on a countywide
13 basis an excise tax not to exceed a rate of one-eighth percent
14 of the gross receipts of any person engaging in business in the
15 county, including all municipalities within the county.

16 B. The tax imposed pursuant to Subsection A of this
17 section may be referred to as the "county correctional facility
18 gross receipts tax".

19 C. An ordinance imposing a county correctional
20 facility gross receipts tax shall also impose a tax on the use
21 of property in the county if the use of the property is subject
22 to the state compensating tax and:

23 (1) the tax imposed pursuant to the provisions
24 of this subsection:

25 (a) may be referred to as the "county

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1 correctional facility compensating tax"; and

2 (b) shall be imposed at a rate that is
3 the same as the rate of the county correctional facility gross
4 receipts tax with which the county correctional facility
5 compensating tax is simultaneously imposed;

6 (2) in an election held to approve the
7 imposition, increase or repeal of a tax imposed by the County
8 Correctional Facility Gross Receipts Tax Act, the ballot shall
9 clearly indicate that the ballot question concerns the
10 simultaneous imposition, increase or repeal of both a county
11 correctional facility gross receipts tax and a county
12 correctional facility compensating tax; and

13 (3) if, on July 1, 2007, a county has in
14 effect a county correctional facility gross receipts tax, a
15 county correctional facility compensating tax is hereby imposed
16 at a rate equal to the rate of the existing county correctional
17 facility gross receipts tax, and the county correctional
18 facility compensating tax automatically imposed by this
19 subsection is effective on July 1, 2007.

20 ~~[C. Any]~~ D. An ordinance imposing a county
21 correctional facility gross receipts tax and a county
22 correctional facility compensating tax pursuant to this section
23 shall:

24 (1) impose the ~~[tax]~~ taxes in any number of
25 increments of one-sixteenth percent not to exceed an aggregate

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1 amount of one-eighth percent, provided that the rates of the
2 two taxes are the same;

3 (2) specify that the imposition of the [~~tax~~
4 ~~will begin~~] taxes begins on either July 1 or January 1,
5 whichever occurs first after the expiration of at least three
6 months from the date that the department is notified personally
7 or by mail by the county of adoption of the ordinance; and

8 (3) dedicate the revenue from the county
9 correctional facility gross receipts tax and the county
10 correctional facility compensating tax:

11 (a) for the purpose of operating,
12 maintaining, constructing, purchasing, furnishing, equipping,
13 rehabilitating, expanding or improving a judicial-correctional
14 or a county correctional facility or the grounds of a judicial-
15 correctional or county correctional facility, including
16 acquiring and improving parking lots, landscaping or any
17 combination of the foregoing;

18 (b) for the purpose of transporting or
19 extraditing prisoners; or

20 (c) to payment of principal and interest
21 on revenue bonds or refunding bonds issued pursuant to the
22 provisions of the County Correctional Facility Gross Receipts
23 Tax Act.

24 [~~D.~~] E. An ordinance imposing a county correctional
25 facility gross receipts tax and a county correctional facility

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1 compensating tax pursuant to this section shall be subject to
2 optional referendum selection by the governing body, as
3 provided in Subsection A of Section 7-20E-3 NMSA 1978.

4 ~~[E.]~~ F. If the county has pledged the revenue from
5 imposition of the county correctional facilities gross receipts
6 tax and the county correctional facility compensating tax to
7 the repayment of bonds or other indebtedness, revenue produced
8 by the imposition of a county correctional facility gross
9 receipts tax and the county correctional facility compensating
10 tax that is in excess of the annual principal and interest due
11 on bonds secured by a pledge of the county correctional
12 facility gross receipts tax and the county correctional
13 facility compensating tax may be accumulated in a debt service
14 reserve account until an amount equal to the maximum amount
15 permitted pursuant to the provisions of the United States
16 treasury regulations is accumulated in the debt service reserve
17 account. After the debt service reserve account requirements
18 have been met, the excess revenue shall be accumulated in an
19 extraordinary mandatory redemption fund and annually used to
20 redeem the bonds prior to their stated maturity date.

21 ~~[F.]~~ G. If the county has pledged the revenue from
22 imposition of the county correctional ~~[facilities]~~ facility
23 gross receipts tax and the county correctional facility
24 compensating tax to the repayment of bonds or other
25 indebtedness, when all outstanding bonds have been paid,

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1 whether from the debt service reserve, the redemption fund or
2 maturity, the ordinance shall be repealed if the county
3 correctional facility gross receipts tax revenue [~~is~~] and the
4 county correctional facility compensating tax revenue are no
5 longer required for the purposes for which [~~it~~] that revenue
6 may be used pursuant to the provisions of the County
7 Correctional Facility Gross Receipts Tax Act.

8 [~~G.~~] H. The repeal of an ordinance imposing a
9 county correctional facility gross receipts tax and a county
10 correctional facility compensating tax shall state that the
11 repeal shall be effective on January 1 or July 1, whichever
12 occurs first following the date the department is notified
13 personally or by mail by the county of the repeal."

14 Section 32. Section 7-20F-5 NMSA 1978 (being Laws 1993,
15 Chapter 303, Section 5) is amended to read:

16 "7-20F-5. COLLECTION BY DEPARTMENT--TRANSFER OF
17 PROCEEDS--DEDUCTIONS.--

18 A. The department shall collect the county
19 correctional facility gross receipts tax in the same manner and
20 at the same time it collects the state gross receipts tax. The
21 department shall collect the county correctional facility
22 compensating tax in the same manner and at the same time it
23 collects the state compensating tax.

24 B. The department shall remit to each county for
25 which it is collecting a county correctional facility gross

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1 receipts tax and a county correctional facility compensating
2 tax the amount of the tax collected, less any disbursement for
3 tax credits, refunds and the payment of interest applicable to
4 the county correctional facility gross receipts tax and less
5 administrative fees of three percent of the net amount to be
6 transferred by the department after deductions or disbursements
7 for tax credits, refunds and payment of interest applicable to
8 the taxes but prior to deduction of the administrative fees
9 that are required to be withheld pursuant to this section.

10 Transfer of the [~~tax~~] taxes to a county shall be made within
11 the month following the month in which the [~~tax is~~] taxes are
12 collected pursuant to the provisions of Section 7-1-6.13 NMSA
13 1978."

14 Section 33. A new section of the County Correctional
15 Facility Gross Receipts Tax Act, Section 7-20F-6.1 NMSA 1978,
16 is enacted to read:

17 "7-20F-6.1. [NEW MATERIAL] COUNTY CORRECTIONAL FACILITY
18 COMPENSATING TAX--ADDITIONAL EXEMPTION.--

19 A. Exempted from the county correctional facility
20 compensating tax is the use of tangible personal property that:

21 (1) is subject to depreciation for federal
22 income tax purposes; and

23 (2) at the time of acquisition or introduction
24 into New Mexico, could not be obtained from sources within New
25 Mexico.

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1 B. The department, by regulation or instruction,
2 may prescribe one or more methods by which the user of property
3 may certify that the property meets the conditions of Paragraph
4 (2) of Subsection A of this section."

5 Section 34. Section 7-20F-7 NMSA 1978 (being Laws 1993,
6 Chapter 303, Section 7) is amended to read:

7 "7-20F-7. REVENUE BONDS--AUTHORITY TO ISSUE--ORDINANCE
8 AUTHORIZING ISSUE--PLEDGE OF REVENUE.--

9 A. In addition to any other law authorizing a
10 county to issue revenue bonds, a county may issue revenue bonds
11 pursuant to the County Correctional Facility Gross Receipts Tax
12 Act for the purposes specified in that act. Revenue bonds
13 issued pursuant to the County Correctional Facility Gross
14 Receipts Tax Act may be referred to as "county correctional
15 facility gross receipts tax revenue bonds".

16 B. A county board, by majority vote, may adopt an
17 ordinance providing for issuance of revenue bonds pursuant to
18 the provisions of the County Correctional Facility Gross
19 Receipts Tax Act, the principal and interest of which shall be
20 paid from the revenue derived by the county from the county
21 correctional facility gross receipts tax and the county
22 correctional facility compensating tax and any other revenue
23 that the county may dedicate to the payment of the revenue
24 bonds.

25 C. Revenue bonds or refunding revenue bonds issued
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1 as authorized pursuant to the County Correctional Facility
2 Gross Receipts Tax Act are:
3 (1) not general obligations of the county; and
4 (2) collectible only from the county
5 correctional facility gross receipts tax, the county
6 correctional facility compensating tax and, if authorized,
7 other properly pledged revenues, and each bond shall be payable
8 solely from the properly pledged revenues and the bondholders
9 shall not look to any other county fund for the payment of the
10 interest and principal of the bonds."

11 Section 35. REPEAL.--Section 7-1-6.41 NMSA 1978 (being
12 Laws 1997, Chapter 125, Section 1) is repealed.

13 Section 36. APPLICABILITY.--The provisions of this act
14 are applicable to use of tangible personal property on or after
15 July 1, 2007.

16 Section 37. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2007.